

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
BID PROTEST**

TRAILBOSS ENTERPRISES, INC.,

Plaintiff,

v.

THE UNITED STATES,

Defendant,

and

G4S SECURE SOLUTIONS (USA) INC.,

Defendant-Intervenor.

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Case No. 21-00011C

Judge Edward H. Meyers

PLAINTIFF’S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

Pursuant to Rule 15 of the Rules of the United States Court of Federal Claims (“RCFC”), Plaintiff Trailboss Enterprises, Inc. (“Trailboss”), by and through its undersigned counsel, respectfully submits this Motion for Leave to File Amended Complaint. Trailboss’s First Amended Complaint will be filed separately under seal in accordance with this Court’s protective order. *See* CM/ECF No. 14.

BACKGROUND

On December 31, 2020, Trailboss filed its Complaint in this post-award bid protest action. *See* CM/ECF No. 1. Since filing the Complaint, Trailboss subsequently learned new information relevant to this bid protest proceeding. Specifically, on January 4, 2021, the U.S. Department of Homeland Security, Immigration & Customs Enforcement (the “Agency”), notified Trailboss that it reconsidered its award decision in the subject procurement. As a result, the Agency apparently

reevaluated certain portions of Trailboss's proposal, resulting in the removal of a Deficiency identified in Trailboss's Technical Approach volume.

ARGUMENT

RCFC 15(a)(1) provides that a party may amend a pleading once as a matter of course, provided that such amendment occurs within twenty-one days after service of the relevant pleading. *See id.*; *see also Taylor v. United States*, 959 F.3d 1081, 1091 (Fed. Cir. 2020). Trailboss first filed its Complaint on December 31, 2020 (*i.e.*, five days ago). Thus, Trailboss is permitted to amend its Complaint as a matter of course without seeking leave of the Court or the other parties' consent.

Alternatively, good cause exists for this Court to grant Trailboss leave to amend the Complaint. RCFC 15(a)(2) further provides, in relevant part, "that leave to amend shall be freely given when justice so requires." *Foman v. Davis*, 371 U.S. 178, 182 (1962) (quotations omitted); *see also Savantage Fin. Servs., Inc. v. United States*, 119 Fed. Cl. 246, 252 (2014) (permitting amendment of bid protest complaint in accordance with RCFC 15(a)). "In the absence of . . . undue delay, bad faith or dilatory motive . . . undue prejudice . . . futility of amendment, etc.—the leave sought should, as the rules require, be freely given." *Forman*, 371 U.S. at 182.

None of the *Foreman* factors are present here. The revised facts alleged in the First Amended Complaint are well-known to the Defendant and the Agency, and the revisions are submitted with sufficient time in advance of the Agency's production of the administrative record currently due on January 20, 2021. *See* CM/ECF No. 13. Moreover, the Amended Complaint does not add any new causes of action, but rather more clearly describes the factual background relevant to this bid protest proceeding based upon information first learned by Trailboss after filing the Complaint.

CONCLUSION

For the foregoing reasons, Trailboss respectfully requests that the Court grant this Motion for Leave to Amend the Complaint.

Dated: January 5, 2021

Respectfully submitted,

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*Attorney of Record for Plaintiff
Trailboss Enterprises, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of January 2021, I caused a true and correct copy of the foregoing Motion for Leave to File Amended Complaint to be filed electronically. This filing was served electronically to all parties by virtue of the Court's electronic filing system.

s/ Shaun C. Kennedy
Shaun C. Kennedy

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